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(4) Was grazing livestock on the date of the entry of the Judgment of Partition, April 18, 1979.

(p) *Carrying capacity* means the maximum stocking rate possible without inducing damage to vegetation or related resources.

(q) *BIA enumeration* means the list of persons living on and improvements located within the former Joint Use Area obtained by interviews by the Project Officer's staff.

(r) *Livestock inventory* means the original list as amended (developed by the Project Officer in 1976-77) of livestock owned by persons having customary grazing use in the former Joint Use Area.

(s) *Settlement Act* means the Act of December 22, 1974, 88 Stat. 1712, as amended.

(t) *Life tenant* means a person who has applied for and been granted a life estate lease pursuant to section 30 of the Settlement Act, 25 U.S.C. 640d-28.

§ 168.2 Authority.

It is within the general authority of the Secretary to protect Indian trust lands against waste and to prescribe rules and regulations under which these lands may be leased or permitted for grazing. Also, under the Navajo-Hopi Settlement Act as amended, 25 U.S.C. 640d-8 and 18, the Secretary is authorized and directed to:

(a) Reduce livestock grazing within the former Joint Use Area to carrying capacity,

(b) Restore the grazing range potential of the resource to maximum grazing extent feasible,

(c) Survey, monument and fence the partition boundary,

(d) Protect the rights and property of individuals awaiting relocation or authorized to reside on life estates, and

(e) To administer conservation practices, including grazing control and range restoration activities on the Hopi Partitioned Lands.

§ 168.3 Purpose.

These regulations are issued to implement the Secretary's responsibilities mandated by the Settlement Act and subsequent U.S. District Court Judgement filed May 4, 1982, in the case, *Hopi Tribe v. Watt*, Civ. No. 81-272

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PCT-EHC. This portion of the regulations apply only to lands partitioned to the Hopi Tribe within the former Joint Use Area.

§ 168.4 Establishment of range units.

The Area Director will use Soil and Range Inventory data to establish range units on the Hopi Partitioned Area to provide for a surface land management program to restore the land to its full grazing potential and maintain that potential to the maximum extent feasible. The establishment of range units on Hopi Partitioned Lands is subject to the concurrence of the Hopi Tribe in accordance with §168.17 of these regulations.

§ 168.5 Grazing capacity.

(a) The Area Director shall prescribe the maximum number of each kind of livestock which may be grazed on land under his jurisdiction without inducing damage to vegetation or related resources on each range unit and the season or seasons of use to achieve the objectives of the land recovery program required by the Settlement Act.

(b) The Area Director shall review the stocking rate upon which the grazing permits are issued on a continuing basis and adjust that rate as conditions warrant.

§ 168.6 Grazing on range units authorized by permit.

Grazing use on range units is authorized only by permits granted under paragraph (a) or (b) of this section.

(a) *Grazing permits to Hopi tribal members on their partitioned lands.* The Area Director shall assign grazing privileges to the Hopi Tribe for lands within Hopi Partitioned Lands. The tribal government will then allocate use to their tribal members for permit periods not to exceed five years. Grazing use by Hopi tribal enterprises may be authorized. The Area Director will issue permits based on the determination of the Hopi tribal government.

(b) *Interim Grazing Permit for persons awaiting relocation.* Navajo Tribal members who have maintained both a permanent residence on Hopi Partitioned lands; a livestock inventory since enumeration; and meet all the criteria listed in §168.1(o), shall be eligible for

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an interim grazing allocation on Hopi Partitioned Lands under the following terms and conditions:

(1) The Area Director shall first verify that an applicant meets the criteria of the definition in §168.1(o) and will issue all permits.

(2) The permitted number shall not exceed either (i) 10 SUYL (See §168.1(1)) for each eligible family member, or (ii) the grazing applicant's livestock inventory reduced by voluntary sales as adjusted by reproduction, in accordance with procedures developed by the Project Officer based upon the study by Stubblefield and Camfield, 1975 page 5. The determination of the person to whom permits will be issued and the number of livestock to be permitted will be based on information provided by the permit applicant and an assessment of the number of dependents residing in the immediate household.

(3) The permit shall authorize grazing for a specific number and kind of animal(s) in a specified range unit. Interim grazing permits will not be issued in excess of one-half the authorized carrying capacity of the Hopi Partition area.

(4) Subject to the provisions of §168.9(b), permits shall expire when the person awaiting relocation is relocated pursuant to the Settlement Act. No interim permit will be issued for a term greater than one year. Permits may be reissued upon application and redetermination of eligibility. All interim permits will expire at the end of the period provided for completion of relocation, Pub. L. 99-190. When a Navajo permit holder discontinues grazing livestock or reduces the number being grazed whether by reason of his relocating or for any other reason, his grazing permit will be cancelled or reduced and no permit will be issued in lieu thereof. The total number of authorized animal units grazed by the Navajo permit holders awaiting relocation will be reduced by the number of animal units authorized under the cancelled or reduced permit.

[47 FR 39817, Sept. 10, 1982, as amended at 51 FR 23052, June 25, 1986]

§ 168.7 Kind of livestock.

Unless determined otherwise by the Area Director for conservation pur-

poses, the Hopi Tribe may determine, subject to the authorized carrying capacity, the kind of livestock that may be grazed by their tribal members on the range units within the Hopi Partitioned Land area.

§ 168.8 Grazing fees.

(a) The rental value of all uses of Hopi Partitioned lands by persons who are not members of the Hopi Tribe, including eligible holders of interim permits, will be determined, and assessed by the Area Director and paid in accordance with 25 U.S.C. 640d-15.

(b) The Hopi Tribe has established an annual grazing fee to be assessed all range users on Hopi Partitioned Lands. The annual Hopi grazing fee shall be paid in full in advance of the annual effective date of the permit, prior to the issuance of a grazing permit. All interim permits will expire at the end of the period provided for completion of relocation, Pub. L. 99-190. Failure of the permittee to make payment in full in advance will be cause to deny issuance of the grazing permit.

[47 FR 39817, Sept. 10, 1982, as amended at 51 FR 23052, June 25, 1986]

§ 168.9 Assignment, modification and cancellation of permits.

(a) Grazing permits to Hopi tribal members shall not be reassigned, sub-permitted or transferred without the approval of the permit issuer(s).

(b) The Area Director may revoke or withdraw all or any part of any grazing permit in Hopi Partitioned Lands by cancellation or modification on 30 days written notice of a violation of the permit or special conditions affecting the land or the safety of the livestock thereon, as may result from flood, disaster, drought, contagious diseases, etc. Except in the case of extreme necessity, cancellation or modification shall be effected on the next annual anniversary date of the grazing permit following the date of notice. Revocation or withdrawal of all or any of the grazing permit by cancellation or modification as provided herein is effective on the date the notice of cancellation or modification is received and shall be appealable under 25 CFR part 2.